



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,925	08/09/2002	Tetsujiro Kondo	450101-03408	1206

20999 7590 04/23/2007
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

STORM, DONALD L

ART UNIT	PAPER NUMBER
----------	--------------

2626

MAIL DATE	DELIVERY MODE
-----------	---------------

04/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/089,925

Applicant(s)

KONDO ET AL.

Examiner

Donald L. Storm

Art Unit

2626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

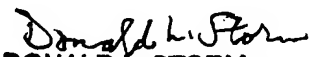
4. ☒ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 1,3-10,12-15 and 39-53.
Claim(s) objected to: 2 and 11.
Claim(s) rejected: none.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☒ Other: See Continuation Sheet.


DONALD L. STORM 4/19/07
PRIMARY PATENT EXAMINER

Continuation of 3. NOTE:

The proposed amendment will not be entered because it does not place the application in condition for allowance because it would introduce objectionable informalities into the claims.

In addition, good and sufficient reasons under 37 CFR 1.116 have not been shown as to why the amendments that remove the "means" terminology were not presented earlier, before prosecution was closed. Except where an amendment merely cancels claims and/or adopts examiner suggestions, removes issues from appeal, or in some other way requires only a cursory review by the examiner, 37 CFR 1.116 requires a showing of why amendments are now necessary. See MPEP 1207. .

Continuation of 11. does NOT place the application in condition for allowance because:

The proposed amendment would introduce objectionable informalities into the claims. .

Continuation of 13. Other:

For purposes of appeal, the proposed amendment(s) will be entered and the proposed objection(s) detailed below must be addressed in any brief on appeal.

Claim 2 will be objected to because the manner of making amendments is not in accordance with 37 CFR 1.121(c). A claim status of "Currently Amended Original" is not permitted. See 37 CFR 1.121(c) and MPEP § 714(II)(C)(A,B).

Claim 11 will be objected to under 37 CFR 1.75(a) because the meaning of the phrase "said learning unit" (line 2) needs clarification. Because no learning unit was previously said, it may be unclear as to what element this phrase refers.

The Examiner notes that entry of the amendment upon appeal might introduce informalities into the claims. In particular, in claim 50 (line 2), should the word "extract" be extracts ?.